

STATE OF MICHIGAN
COURT OF APPEALS

RUTH ANN HARRIS,

Plaintiff-Appellant,

v

BANK OF ALMA,

Defendant-Appellee.

UNPUBLISHED

July 1, 1997

No. 191089

Saginaw Circuit Court

LC No. 95-005798 CL

Before: Cavanagh, P.J., and Doctoroff and D.A. Teeple*, JJ.

MEMORANDUM.

Plaintiff appeals by right the Saginaw Circuit Court's order for summary disposition in this age discrimination action predicated on the Elliott-Larsen Civil Rights Act. This case is being decided without oral argument pursuant to MCR 7.214(E).

To establish age discrimination, plaintiff relies in great part on statistical evidence, indicating that the bulk of defendant's workforce, and the vast majority of its new or recent hires, consists of persons under the age of 40, while only 9% of the workforce consists of persons over the age of 50 like plaintiff. However, such statistical evidence, standing alone, without identifying an illegal employment practice causing such disparities, is insufficient to establish a cause of action for discrimination. *Watson v Fort Worth Bank & Trust*, 487 US 977; 108 S Ct 2777; 101 L Ed 2d 827 (1988). The probative value of statistical evidence arises only when it is correlated with the demographics of the pool of qualified employees or applicants. *Words Cove Packing Co, Inc v Antonio*, 490 US 642; 109 S Ct 2115; 104 L Ed 2d 733 (1989); *Furnco Construction Corp v Waters*, 438 US 567; 98 S Ct 2943; 57 L Ed 2d 957 (1978). Plaintiff here has produced no evidence whatsoever concerning the demographics of the pool of applicants from which defendant Bank has hired its workforce.

Furthermore, plaintiff has failed to establish other elements of a prima facie case of discrimination. Plaintiff has failed to show that she was qualified for the position in question, as she lacked a college degree and strong commercial lending experience. *Dubey v Stroh Brewery Co*, 185 Mich App 561; 462 NW2d 758 (1990); *Meeka v D & F Corp*, 158 Mich App 688, 693; 405

* Circuit judge, sitting on the Court of Appeals by assignment.

NW2d 125 (1987). Even if plaintiff's qualifications were equal to those of the person actually hired, the age differential would not be probative of prohibited discrimination. *Texas Dept of Community Affairs v Burdine*, 450 US 248; 101 S Ct 1089; 67 L Ed 2d 207 (1981), *on remand* 647 F2d 513. Plaintiff has not claimed that the qualifications which defendant established for the branch manager position are unrelated to the duties or qualifications of a bank branch manager, or that such criteria were established for the purpose of discriminating on the basis of age or other prohibited characteristic. Accordingly, the circuit court properly granted summary disposition.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Martin M. Doctoroff
/s/ Donald A. Teeple